BEFORE THE JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE PET FOOD PRODUCTS LIABILITY LITIGATION	:	CASE NO. MDL DOCKET NO. 1850
	:	
	:	**DECLARATION OF CHRISTOPHER J. MIFFLIN IN SUPPORT OF DEFENDANTS' MOTION TO ADOPT THE RETRIEVAL PLANS FOR ORGANIZED RECALLED PRODUCT THAT WERE RECOMMENDED BY DEFENDANTS' EXPERT**

PROVINCE OF ONTARIO, CANADA)
) ss:
CITY OF STREETSVILLE)

Christopher J. Mifflin, being first sworn upon oath, says:

1) I am the Executive Vice-President of Operations of Menu Foods GenPar Limited ("Menu Foods") which is the administrator of the Defendant Menu Foods Income Fund et al. I am making this Declaration based upon personal knowledge and am competent to testify to the matters stated below.

2) In my position as Executive Vice-President of Operations for Menu Foods, my duties and responsibilities include managing and overseeing Menu Foods' manufacturing process and the management of the recalled pet food currently being stored by Menu Foods.

3) In March, April and May 2007, Menu Foods recalled certain pet food that may have been tainted with contaminated wheat gluten purchased from Chem Nutra, Inc. As a result, Menu Foods is holding a tremendous amount of recalled pet food.

4) One category of recalled pet food Menu Foods is currently storing is referred to as "Organized Product." The Organized Product is pet food contained in cans or pouches that is in cases and stored on full or partial pallets in Menu Foods' warehouses or in third party warehouses being rented by Menu Foods. This pet food either never left Menu Foods' possession or was distributed to retailers and returned to Menu Foods in unopened cases or pallets. Menu Foods currently is storing approximately 2,123,974 cases of Organized Product, amounting to approximately 51,000,000 individual units of Organized Product.

5) To date, Menu Foods has not disposed of, and continues to store, the approximately 2,123,974 cases of Organized Product in its possession.

6) A "SKU date" represents all product of a particular recipe that is produced in a given production run at a Menu Foods plant on a given day.

7) Menu Foods produces its pet food product in batches of the same recipe, and more than one batch usually is used to manufacture the product within a particular SKU date. Typically, there are two to six batches per SKU date, but the number of batches can range from one to 20 per SKU date.

8) At the beginning of Menu Foods' production process, the raw materials, which include the meat component of the pet food, and the dry materials, which include the raw wheat gluten, for a particular recipe are placed into a large vat together and thoroughly mixed.

This mixing is done to ensure uniform product is placed into the units (either cans or pouches). The process is analogous to an egg being added to cake batter and mixed.

9) The thoroughly mixed pet food then automatically goes from the vat into individual units, which are either cans or pouches. The units next are heated in what is known as a "retort" to achieve commercial sterility. At the end of the production process, units are placed into cases sequentially in the order they came out of the retort and the cases then are placed onto pallets in sequential order. As a result, the last case placed on the top of one pallet will typically contain units that came out of the retort immediately before the units in the first case placed on the bottom of the next pallet.

10) Menu Foods currently is storing approximately 15,154 pallets of Organized Product. 3,865 pallets are stored in a warehouse in New Jersey, 10,459 pallets are stored in warehouses in Kansas and 830 pallets are stored in a warehouse in Canada.

11) Typically, there are 12 or 24 units per case of product and 112 to 220 cases per pallet, with the larger number of cases per pallet being associated with cases with a lower number of units.

12) Specifically, Menu Foods has approximately eight variations on the number of cases per pallet depending on the size of the units in the cases, which are as follows:

a. 3 oz cans, 24 to a case: 220 cases per pallet

b. 3 oz pouches, 24 to a case: 160 cases per pallet

c. 5.5 oz cans, 24 to a case: 126 cases per pallet

d. 5.3 oz pouches, 24 to a case: 120 cases per pallet

e. 6 oz cans, 24 to a case: 126 cases per pallet

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f. 6.5 oz handicans, 24 to a case: 170 cases per pallet

g. 13.2 oz, 12 to a case: 170 cases per pallet

h. 22 oz, 12 to a case: 112 cases per pallet.

13) The units produced in one individual batch can fill multiple pallets.

14) The process for placing product into units, units into cases and cases onto pallets is very fast. Although the production pace depends on the Menu Foods' plant in which the product is produced and the size of the unit being produced, a case typically is filled in seconds and a pallet typically is filled in 3 to 6 minutes. For example, for a 3 oz. can size product, Menu Foods fills approximately 1,000 cans per minute and 11.5 pallets per hour. For a 13.2 oz. can sized product, Menu Foods fills approximately 700 cans per minute and 21 pallets per hour.

15) Menu Foods' production process is designed to provide high quality pet foods to customers. One way the quality is measured is through the corporate-wide applied and weekly reported Key Performance Indicator "First Pass Quality" – this is a measurement of cases put on hold, and subsequently re-inspected, relative to total cases produced. Typically, a greater than 99.5% level is achieved. In addition, batch to batch variation is minimized through use of sophisticated manufacturing control systems – programmable logic controllers ("PLC") and sophisticated weight control measurement devices (electronic load cells and mass flowmeters) are used to ensure a high degree of process reliability and repeatability.

16) It is most practical at this time for Menu Foods to select and store intact cases of product rather than to open cases and organize and store individual cans from cases. This method will minimize human error that could occur in the selection and storage of the retrieved product.

17) The safest way for Menu Foods' employees to retrieve cases from pallets is for them to retrieve the cases from the top of the pallet, as opposed from within different places in the pallet. The selection of cases would pose a greater risk of injury if pallets (which can be stacked up to 10 cases high) were required to be broken down and cases selected from within each pallet. There is a risk that cases above will break and/or fall, possibly causing injury to Menu Foods' employees. This risk does not exist if cases are retrieved only from the top of a pallet, as such cases can easily be identified and selected from the pallet without needing to break down the pallet.

18) I previously conveyed the informed in this declaration to Dr. McCabe.

C Mifflin

CHRISTOPHER J. MIFFLIN

Sworn to and subscribe in my presence by the said ~~Christopher J. Mifflin, this 25~~ 25th day of March, 2008. CM.

Notary Public

RICHARD T. BENNETT, LL.B.

My commission expires: at the pleasure of the Lieutenant Governor of Ontario

CM